B. Devdasis. Protection
50

K 1950

# File No.

Legal Department—
B BRANCH

A Bill No. XVII of 1950
amend the Bombay
Protection Act, 1934

Bo[redacted] of 1950

P-18
E

File No. B. Devdasis. Protection/50

Gen. 194 e.

757-B

Legal Department.

The necessary draft Bill is sent herewith. The Bill includes a provision granting protection to persons acting in good faith.

2. The subject-matter of the Bill falls under entries 2 and 4 in List III in the Seventh Schedule to the Government of India Act, 1935. The Bill does not require any sanction or recommendation under the said Act.

3. It may be pointed out that the question of making the offence cognizable was considered in 1938 and Government had after consulting the Hindu M. L. As. decided that it should not be made cognizable (vide orders at p. 127 of H.D. file 2416/3-III)

Id/- J.R.D. 6/5

Additional Secretary to Government.

U.R. to H.D., No.4880, dated the 6th May 1949.

KAN/21-7.
4 c.

Legal Department.

Section 5 of the Bombay Devadasis Protection Act, 1934, lays down that whoever, other than the woman to be dedicated, performs, permits, takes part in or abets the performance of, any ceremony of dedication of a woman as a devadasi, shall, on conviction, be punishable with imprisonment of either description for a term which may extend to one year, or with fine or with both. It has been noticed that the Act has not been effective as people do not come forward to lodge complaints for contravention of section 5. It has, therefore, been decided that the offence punishable under section 5 should be made cognizable. Even if the offence is made cognizable people may not come forward and inform the Police about the contravention of the Act, for fear of civil or criminal proceedings which may be instituted by the party contravening the Act in order to harass or coerce them. The principle underlying clause 5B is well settled. The principle is that if any public or prviate body charged with the execution of a Statute honestly intends to put the law in motion and really and not unreasonably believes in the existence of facts, which, if existent, would justify his acting and acts accordingly, his conduct is held to be in pursuance of the Statute and is protected. (Spooner v Juddow 4 M.I.A. 353 at page 376, I.L.R. 37 Bom.101). This principle is well established and is generally inserted in all Statutes which contain penal provision It is necessary to insert it in this Act as offences thereunder are made cognizable and Police Officers will have power to arrest offenders without a warrant.

Id/- J.R.D. 16/6

Additional Secretary to Government.

KAN/21-7.
4 c.

U.D. to H.D. No. 6714, dated the 17th June 1949.

Legal Department.

As directed by H.P., letters were sent on 24th June to Messrs. Karkhanis and Koujalgi of Bijapur requesting them to forward to this Department their suggestions, if any, for the amendment of the Bombay Devadasis Protection Act, 1934. Mr. Karkhanis has with his letter dated the 26th June 1949 forwarded a note on the condition of the Devadasis but so far no reply has been received from Mr. Koujalgi.

2. The only suggestion made in the note forwarded by Mr. Karkhanis for amendment of the Act is that the prostitution should be penalised and that the offence should be made a cognizable one. The necessary provisions for penalising prostitution are contained in the Bombay Prevention of Prostitution Act, 1923, and the offence of dedication of a woman as a devadasi is already being made cognizable under the draft Bill at page 101 ante.

3. The Madras Devadasis (Prevention of Dedication) Act, 1947 and the Bengal Supression of Immoral Traffic Act, 1933, were looked up. The Madras Act is on the lines of the Bombay Devadasis Act. Section 10 of the Bengal Suppression of Immoral Traffic Act provides for penalty for importing a female for prostitution. In the note forwarded by Mr. Karkhanis it is pointed out that some girls and married women are brought to Bombay for prostitution. Section 7 of the Bombay Prevention of Prostitution Act, 1923, already contains a provision on the lines of section 10 of the Bengal Act providing

penalty for importing into Bombay any girl or woman for prostitution. It appears that the provisions of this section have been extended to the towns of Poona, Ahmednagar, Ahmedabad, Belgaum, Nasik and Dhulia; the Bombay Suburban District, the Municipal Boroughs of Sholapur, Pandharpur, Surat, Bhusawal and Jalgaon. H.D. is requested to consider the question of extending the provisions of this section to Bijapur and other cities from which girls and women are brought to Bombay for the purposes of prostitution.

4. In view of the position stated above, the draft Bill at page 101 ante does not require any modification.

Id/- J.R.D. 15/7

Additional Secretary to Government.

U.R. to H.D. No.7982, dated the 15th July 1949.

KAR/21-7.
4 c.

Legal Department.

Mr. Karkhanis has made the following suggestions regarding the Bombay Devadasis Protection Act 1934 :-

(1) section 3 should be so amended that section could be taken irrespective of whether a ceremony takes place or not;

(ii) the punishment under section 5 should be more deterrent; and

(iii) all offences under that section should be made cognizable.

Under the Madras Devadasis Protection Act, 1947 performance of or taking part in a ceremony or act or abetment thereof is made punishable. (See section 4)[1] To meet the object Mr. Karkhanis has in view it would be sufficient if under the Bombay Devadasis Protection Act the performance also of any act intended to dedicate or having the effect of dedicating a woman as a Devadasi or abetment thereof is made punishable as in the Madras Act.. For this purpose sections 3 and 5 may be amended by the insertion of the words 'or act' after the word "ceremony" occurring in those sections.

2. Under section 5 of the Bombay Devadasis Protection Act, 1934, the punishment for the performance of or taking part in any ceremony or abetment thereof is punishable with imprisonment for a term which may extend to one year or with fine or with both. Under the Madras Devadasis Act

the punishment for a similar offence is imprisonment which may extend to six months or with fine which may extend to Rs. 500/- or with both. The punishment provided by the Bombay Act is already severe and need not be made more deterrrent as suggested by Mr. Karkhanis.

3. In the draft Bill sent to the Home Department under this office U.R. No. 4980, dated the 6th May 1949 provision has already been made for making the offence punishable under section 5 cognizable. A revised Bill incorporating the first suggestion made by Mr. Karkhanis is sent herewith.

4. The Home Department should see the accompanying suggestions made by Mr. Karkhanis for the amendment of the Bombay Children Act 1948.

Sd/- J.R. Dhurandhar

Additional Secretary to Government.

U.R. to H.D. No. 10142, dated the 6th September 1949.

KAH/21-7.
4 c.

Legal Department.

A copy of the Bill as desired by Education Department is sent herewith.

For the copy of the Bombay Devadasi Protection Act, 1934, attention of Education Department is invited to pages 1947-48 of the revised edition of the Bombay Code, (sixth edition).

Id/- K. J. Patharo

Personal Assistant to the
Remembrancer of Legal Affairs.

U.R. to E.D. No.368 , dated the 10th January 1950.

KAN/21-7.
4 c.

IMMEDIATE.

No.5401
Legal Department,
Bombay Castle, (Bombay No.1), 20th April 1950.

From

Shri J.R.Dhurandhar,
Additional Secretary to the Government of Bombay, Legal Department.

To

The Private Secretary to the Governor of Bombay.

Subject:-The Bombay Devadasis Protection (Amendment) Bill, 1950.

Sir,

With reference to article 200 of the Constitution of India, I am directed to forward herewith for the assent of His Excellency the Governor the authentic copy of the Bombay Devadasis Protection (Amendment) Bill, 1950, which was read for the third time and passed at the meetings of the Bombay Legislative Assembly and the Bombay Legislative Council held on the 4th and the 10th April 1950, respectively.

2. The subject matter of the Bill falls under entries 2 and 13 in List III in the Seventh Schedule to the Constitution of India. As the Bill does not contain any provision repugnant to the provisions of any earlier law made by the Parliament or an existing law with respect to any of the matters enumerated in the Concurrent Legislative List, it is not necessary to reserve the same for the consideration of the President with reference to article 254(2) of the Constitution.

3....

3. The date on which His Excellency the Governor's assent is given may kindly be entered in the endorsement.

4. I also forward herewith one copy of each of the

| | | |
|---|---|---|
| 1. Bill as introduced in the Bombay Legislative Assembly with the Statement of Objects and Reasons. | : | Items Nos. 1, 2 and 4 and two copies of item No. 3 of the papers noted |
| 2. Bill as read for the third time and passed by the Bombay Legislative Assembly and as introduced in the Bombay Legislative Council. | : | |
| 3. Bill as read for the third time and passed by the Bombay Legislative Council. | : | |
| 4. Extracts from the proceedings of the Bombay Legislative Assembly dated the 4th April 1950 and of the Bombay Legislative Council dated the 10th April 1950. | : | |

in the margin. The Bill was not referred to a Select Committee.

Yours faithfully,

Id/- J.R.D. 20/4

Additional Secretary to Government.

Through the Secretary to the Government of Bombay,
Education Department.

KAN/21-7.
4 c.

No. P.S.G.-1176

From

THE PRIVATE SECRETARY TO THE GOVERNOR OF BOMBAY

To

The Additional Secretary to Government,

Legal Department.

GOVERNMENT HOUSE,

BOMBAY, 6. April 39, 1950.

Subject:- The Bombay Devadasis Protection (Amendment) Bill, 1950.

Sir,

With reference to your letter No. 5401, dated April 20, 1950, I am directed to return herewith the authentic copy of the Bombay Devadasis Protection (Amendment) Bill, 1950, with His Excellency the Governor's assent signified thereon.

Yours faithfully,

Sd/- L.M. Nadkarni.

Private Secretary to the Governor of Bombay.

KAN/21-7.
4 c.

Acts.

Publication of the Bombay Devadasis Protection (Amendment ) Act, 1950.

GOVERNMENT OF BOMBAY,
Legal Department,
Resolution No.6148

Bombay Castle, 5th May 1950.

Letter to the Private Secretary to the Governor, No.5401, dated the 20th April 1950.

Letter from the Private Secretary to the Governor, No. P.S.G.-1176, dated the 30th April 1950.

"With reference to your letter No,5401, dated April 20, 1950, I am directed to return herewith the authentic copy of the Bombay Devadasis Protection (Amendment) Bill, 1950, with His Excellency the Governor's assent signified thereon".

RESOLUTION:- The law should be published as Bombay Act No. XX of 1950, in the Bombay Government Gazette, dated the 5th May 1950.

2. The Act should be translated into Marathi, Gujarati, Kannada and Hindi (in Devnagari and Urdu scripts) and the translations should be published in the Bombay Government Gazette.

3. A copy of the Act should be forwarded to the Education Department.

By order of the Governor of Bombay,

Sd/- K.J. Pathare,
Assistant Secretary to Government.

To

The Manager, Government Central Press, Bombay (with a copy of the Act and with a request that 30 Gazette copies the Act may be forwarded to the Legal Department),
The Education Department, ) with
The Oriental Translator to Government (with five extra copies of the Act), ) copy
The Bombay Legislature Department, ) of the
The Director of Publicity, Bombay, ) Act.
The Enquiry Officer for the Secretariat, Bombay )

The following Bill is published under the proviso to rule 80 of the Bombay Legislative Assembly Rules :—

## L. A. BILL No. XVII OF 1950.

*A Bill to amend the Bombay Devadasis Protection Act, 1934.*

Bom. X of 1924.

WHEREAS it is expedient to amend the Bombay Devadasis Protection Act, 1934, for the purposes hereinafter appearing ; It is hereby enacted as follows :—

Short title.

1. This Act may be called the Bombay Devadasis Protection (Amendment) Act, 1950.

Bom. X of 1934.

Amendment of section 3 of Bom. X of 1934.

2. In section 3 of the Bombay Devadasis Protection Act, 1934 (hereinafter called the said Act), after the word " ceremony ", wherever it occurs, the words " or act " shall be inserted.

Amendment of section 5 of Bom. X of 1934.

3. In section 5 of the said Act, after the words " any ceremony " the words " or act " shall be inserted.

Insertion of new sections 5A and 5B in Bom. X of 1934.

4. After section 5 of the said Act, the following sections shall be inserted, namely :—

Offence to be cognisable.

" 5A. The offence punishable under section 5 shall be cognisable.

Protection of persons acting in good faith.

5B. No suit, prosecution or other legal proceeding shall lie against any person for anything which is in good faith done or intended to be done under this Act."

## STATEMENT OF OBJECTS AND REASONS.

The offences under the Bombay Devadasis Protection Act, 1934, being non-cognisable, people do not readily come forward to lodge complaints in respect of these offences. Moreover, under sections 3 and 5 of the said Act, it is the performance of a "ceremony" intended to dedicate or having the effect of dedicating a woman as a devadasi that is declared unlawful. If no such "ceremony" takes place, no action can be taken against the offenders. The said Act has, therefore, failed in effectively putting an end to the practice of dedicating women as "devadasis". To remove these defects, it is proposed to amend sections 3 and 5 of, and insert new sections 5A and 5B in, the said Act.

(Signed) G. D. TAPASE.

Dated the 23rd March 1950.

By order of the Governor of Bombay,

J. R. DHURANDHAR,
Additional Secretary to the Government of Bombay,
Legal Department.

Bombay, dated the 28th March 1950.

BOMBAY: PRINTED AT THE GOVERNMENT CENTRAL PRESS.

## L. A. BILL No. XVII OF 1950.

*A Bill to amend the Bombay Devadasis Protection Act, 1934.*

**(As read for the third time and passed by the Legislative Assembly on the 4th April 1950.)**

Bom. X of 1934.

WHEREAS it is expedient to amend the Bombay Devadasis Protection Act, 1934, for the purposes hereinafter appearing ; It is hereby enacted as follows :—

Short title.

1. This Act may be called the Bombay Devadasis Protection (Amendment) Act, 1950.

Bom. X of 1934.

Amendment of section 3 of Bom. X of 1934.

2. In section 3 of the Bombay Devadasis Protection Act, 1934 (hereinafter called the said Act), after the word " ceremony ", wherever it occurs, the words " or act " shall be inserted.

Amendment of section 5 of Bom. X of 1934.

3. In section 5 of the said Act, after the words " any ceremony " the words " or act " shall be inserted.

Insertion of new sections 5A and 5B in Bom. X of 1934.

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" 5A. The offence punishable under section 5 shall be cognisable.

Protection of persons acting in good faith.

5B. No suit, prosecution or other legal proceeding shall lie against any person for anything which is in good faith done or intended to be done under this Act."

MO-II Bk Hb 17

## STATEMENT OF OBJECTS AND REASONS.

The offences under the Bombay Devadasis Protection Act, 1934, being non-cognisable, people do not readily come forward to lodge complaints in respect of these offences. Moreover, under sections 3 and 5 of the said Act, it is the performance of a "ceremony" intended to dedicate or having the effect of dedicating a woman as a devadasi that is declared unlawful. If no such "ceremony" takes place, no action can be taken against the offenders. The said Act has, therefore, failed in effectively putting an end to the practice of dedicating women as "devadasis". To remove these defects, it is proposed to amend sections 3 and 5 of, and insert new sections 5A and 5B in, the said Act.

G. D. TAPASE.

Dated the 23rd March 1950.

Government of Bombay

LEGAL DEPARTMENT

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[L. A. BILL No. XVII OF 1950.]

(As read for the third time and passed by the Legislative Assembly on the 4th April 1950.)

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A Bill to amend the Bombay Devadasis Protection Act, 1934.

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[Shri. G. D. Tapase, M.L.A.]

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BOMBAY: PRINTED AT THE GOVERNMENT CENTRAL PRESS.

# L. A. BILL No. XVII OF 1950.

*A Bill to amend the Bombay Devadasis Protection Act, 1934.*

**(As read for the third time and passed by the Legislative Assembly on the 4th April 1950.)**

**(As read for the third time and passed by the Legislative Council on the 10th April 1950.)**

Bom. X of 1934.

WHEREAS it is expedient to amend the Bombay Devadasis Protection Act, 1934, for the purposes hereinafter appearing; It is hereby enacted as follows :—

Short title.

1. This Act may be called the Bombay Devadasis Protection (Amendment) Act, 1950.

Bom. X of 1934.

Amendment of section 3 of Bom. X of 1934.

2. In section 3 of the Bombay Devadasis Protection Act, 1934 (hereinafter called the said Act), after the word "ceremony", wherever it occurs, the words "or act" shall be inserted.

Amendment of section 5 of Bom. X of 1934.

3. In section 5 of the said Act, after the words "any ceremony" the words "or act" shall be inserted.

Insertion of new sections 5A and 5B in Bom. X of 1934.

4. After section 5 of the said Act, the following sections shall be inserted, namely :—

Offence to be cognisable.

"5A. The offence punishable under section 5 shall be cognisable.

Protection of persons acting in good faith.

5B. No suit, prosecution or other legal proceeding shall lie against any person for anything which is in good faith done or intended to be done under this Act."

MO-II Bk Hb 42—1

Government of Bombay

LEGAL DEPARTMENT

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[L. A. BILL No. XVII OF 1950.]

(As read for the third time and passed by the Legislative Assembly on the 4th April 1950.)

(As read for the third time and passed by the Legislative Council on the 10th April 1950).

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# A Bill to amend the Bombay Devadasis Protection Act, 1934.

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[Shri. G. D. TAPASE, M.L.A.]

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MO-II Bk Hb 42—2

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Separate paging is given to this Part in order that it may be filed as a separate compilation.


## PART IV

**Acts of the Bombay Legislature and Ordinances promulgated by the Governor.**

CONTENTS.


| | PAGES |
|---|---|
| BOMBAY ACT No. XX OF 1950—An Act to amend the Bombay Devadasis Protection Act, 1934 ... ... ... ... ... ... ... | 413-414 |


The following Act of the Bombay Legislature having been assented to by the Governor on the 29th April 1950 is hereby published for general information.

J. R. DHURANDHAR,
Additional Secretary to the Government of Bombay,
Legal Department.

### BOMBAY ACT No. XX OF 1950.

*(First published, after having received the assent of the Governor, in the "Bombay Government Gazette" on the 5th May 1950.)*

An Act to amend the Bombay Devadasis Protection Act, 1934.

Bom. X of 1934.

WHEREAS it is expedient to amend the Bombay Devadasis Protection Act, 1934, for the purposes hereinafter appearing; It is hereby enacted as follows :—

Short title.

**1.** This Act may be called the Bombay Devadasis Protection (Amendment) Act, 1950.

Bom. X of 1934.

Amendment of section 3 of Bom. X of 1934.

**2.** In section 3 of the Bombay Devadasis Protection Act, 1934 (hereinafter called the said Act), after the word "ceremony", wherever it occurs, the words "or act" shall be inserted.

Amendment of section 5 of Bom. X of 1934.

**3.** In section 5 of the said Act, after the words "any ceremony" the words "or act" shall be inserted.

Insertion of new sections 5A and 5B in Bom. X of 1934.

4. After section 5 of the said Act, the following sections shall be inserted, namely :—

Offence to be cognisable.

"5A. The offence punishable under section 5 shall be cognisable.

Protection of persons acting in good faith.

5B. No suit, prosecution or other legal proceeding shall lie against any person for anything which is in good faith done or intended to be done under this Act."

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